

ZB# 66-5b

Sun Oil Co.

(no SBL given)

66-5 B- Sun Oil Co.
9-28-66 11pm

FILED

JULIA M. TUCKOSH
TOWN CLERK
TOWN OF NEW WINDSOR

NOTICE OF HEARING
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR
NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Town of New Windsor, Orange County, New York, will hold a public hearing on the 19th day of September, 1966 at 7:30 p.m. at the Town Hall at 244 Union Avenue in the Town of New Windsor, to consider an appeal by the Sun Oil Company concerning a stop order to building permit No. 5 issued on March 4, 1966 covering the construction of a gasoline service station at the intersection of Route 22 and North Road (Old Temple Hill Road).
By ORDER OF THE TOWN BOARD OF THE TOWN OF NEW WINDSOR
Dated: September 7, 1966
/s/ EUGENE SLOAN
Chairman
Sept. 8

State of New York
County of Orange, ss:

Hugh V. Nocton , being duly sworn deposes and says that he isPrincipal..Clerk..... of Newburgh-Beacon News Co., Inc., Publisher of The Evening News, a daily newspaper published and of general circulation in the Counties of Orange and Dutchess, and that the notice of which the annexed is a true copy was published
.....One Time.....
in said newspaper, commencing on the.....8th.....day of
.....September.....A.D., 1966 , and ending on
the8th..... day ofSeptember. A.D., 19 66

Subscribed and sworn to before me this
.....8th..... day of.....September 19.....66

Hugh V. Nocton
Eugene Sloan

Notary Public of the State of New York, County of Orange.
MY COMMISSION EXPIRES MARCH 30, 19 67



PLEASE PREPARE IN DUPLICATE

Adopted 12/20/65

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
APPLICATION FOR INTERPRETATION

TO THE ZONING BOARD OF APPEALS

A. Statement of Ownership and Interest

1. The applicant (x) SUN OIL COMPANY

(is) (was) the owner (x) of property

situated at the following address: west side of Route 32 at intersection of Old Temple Hill Road opposite Big V Shopping Center

2. The above described property was acquired by applicant

on May 5, 1966

B. REQUEST:

Applicant requests an interpretation of the zoning ordinance of the Town of New Windsor in accordance with the following sections. (Check applicable sections and specify details).

Section 9.3.1 () Section 9.3.2 () Section 9.3.3 (x)
Being an appeal from a stop order of the Building Inspector recinding an earlier issued Building Permit.

C. REASON FOR REQUEST:

1. Specify in detail if this request is by reason of an order, requirement, decision or determination of any official of the town. (see page 2)

DATED: September 6, 1966

STATE OF NEW YORK
COUNTY OF ORANGE

SS

Sworn to this 7th day of Sept. 19 66

Lorraine C. Devers
(Notary Public)

LORRAINE C. DEVERS
NOTARY PUBLIC IN THE STATE OF NEW YORK
RESIDING IN ORANGE COUNTY
MY COMMISSION EXPIRES MARCH 29, 1967

SUN OIL COMPANY

BY: Raymond Firestone
Signature of Applicant
Raymond Firestone, Agent

River Rd. Box 550 Newburgh, NY
Address

561-3040

Telephone No.

A fee of \$10.00 must accompany this application. All applications must be returned to: Eugene Sloan, Chairman, New Windsor Zoning Board of Appeals, M.D. 29, Lt. Britain Rd., Newburgh, N.Y.

DO NOT WRITE IN THIS SPACE

Interpretation Request No. 9/66

Date Received 9/66

Date of Decision 9/19/66

Decision:

This appeal has been denied.

PAGE 2

SUN OIL COMPANY APPEAL

Subject application is being made herewith as an appeal from the stop order issued by the Building Inspector to Sun Oil Company recinding the earlier building permit No. 5, approving the construction of a gasoline service station on the west side of Route 32 at its intersection with the north side of North Road (Old Temple Hill Road) on property recently acquired by Sun Oil Company from one Marcantonio.

Interpretation of Section 48-13 (B) (5) is involved along with an interpretation of the duties and powers of the Planning Board in its review of the site development plan submitted by Sun Oil Company for the Planning Board's approval.

ZONING BOARD OF APPEALS
Minutes - September 19, 1966

The Zoning Board of Appeals held a public hearing on September 19th. Members attending were : Chairman Sloan, Mrs. Budney, Col. Fischer, Mr. Orzechowski and Mr. Stortecky. Absent were Mr. Roper and Mr. Travis. Also in attendance: Mr. Holt and Mr. Firestone of Sun Oil Company, Julius L. Hoyt, Esq., their attorney, Isadore Shapiro, Esq., attorney for the City School District, Charles J. Roskoski, Esq., attorney for Mr. and Mrs. Frank Grofe and Mr. John Potro. Spectators present: Mr. E. Panella, Mr. DeVote and Mr. and Mrs. Frank Grofe.

Chairman Sloan called the public hearing to order. Legal notice read by secretary and a correction noted by Mr. Hoyt to read "by Order of the Zoning Board of Appeals". A communication from Mr. Hoyt, affidavit of mailing notices and application were read and filed. Check for \$10.00 received and 14 return receipts were reported.

A communication from Emil Duda and John Captain, co-owners of Stewart's Root Beer, was read stating that they do not object to the proposed gas station adjacent to their business.

Remarks from Julius L. Hoyt, attorney for Sun Oil, followed:

Mr. Hoyt made it very clear that this was not an application for an additional variance. Basically, Mr. Hoyt directed our attention to Section 48-13 (page 4832 of the Zoning Ordinance) whereby if property is located in a GI district, Item 5 indicates that automotive service stations are subject to regulations as set forth in 48-9B (11). This indicates what the standards an applicant in property designated as GI must follow. That is the extent in a GI district and it must be fulfilled and the Building Inspector and Planning Board are permitted to refer to this. The bulk and density regulations are not applicable in this law. In essence, Mr. Hoyt said that the application states that you follow the LB or GI vertical column. This 48-9B (11) must be complied with. Of those seven items in Section 48-9B (11) we were given a variance of 15,000 sq. ft. and all items were properly submitted initially back in February 1966 and we are submitting the same plan now. We also submitted the same plan to the Planning Board and this is the precise plan which we are concerned with. With the fulfillment of our own plan, and with your variance being granted in connection with the other two sections, we believe that the Building Inspector is in error and as a matter of law, the Planning Board must approve and the Building Inspector must withdraw his stop order which was received in March 1966. The memorandum submitted explains this. We have the applicable section of the ordinance and acted in good faith and went into construction. The bulk and district parking sections are not applicable here. The hardship of Sun Oil Company that has developed here, for the record, is necessary to state because there is \$6,000 to \$8,000 involved. We came this evening, said Mr. Hoyt, and appreciate your hearing this matter on such a short time table. We want to indicate, as a matter of record, that Sun Oil wants to go ahead.

Chairman Sloan asked if the members of the Board had any questions. Mrs. Budney wanted to know if the stop order was issued because they were too close to the road. Mr. Hoyt answered that he believes it is the contention of the Planning Board that there is a 10 ft. side yard set back required. (Map shown). Mr. Hoyt said that they are here tonight strictly on a matter of law and that they would like to have it reviewed on this basis. He added that he doesn't believe that final analysis is necessary and doesn't come in and say that "won't you give us a 10 ft. side yard set back for this particular property is not required." He is asking the Zoning Board of Appeals for an interpretation of the ordinance in connection with GI district properties which are gas stations. Mr. Hoyt added that he respectfully says to us that we must interpret this and that there is no more required of an applicant than what they have done.

Isadore Shapiro, representing the City School District, made the following comments:

"I received this notice which did not state specifically what the public hearing was about. From what I can gather from the statement made, the Sun Oil Company has come here tonight and is asking the members of the Zoning Board of Appeals to say that in a General Industry area, if you want to put up an industrial building, you must have a 10 ft. set back from the street, but if you want to put up a gas station, you must put it 1 ft. from the street. I cannot follow the logic of this. I think that an error was made here and it would be worse if you would compound this error and say that gasoline stations in the Town of New Windsor can be built 1 ft. from the line!

Mr. Roskoski, attorney for Mr. and Mrs. Grefe, added the following comments:

"I think you should let the decision of the Planning Board stand and in so far as interpretation is concerned, that you interpret the ordinance strictly as it should be. We ask that you respectfully uphold the previous decision. Mr. and Mrs. Grefe are opposing this station because they are interested primarily in the school and the safety of the children attending this school".

Chairman Sloan then stated that the Board will take into consideration all testimony and will render a decision.

Public excused and regular meeting continued with the appearance of Alfred Cavalari, Esq., attorney for Mr. William Ransom of Riley Road, New Windsor. Mr. Cavalari submitted an affidavit (per minutes August 22nd, paragraphs 13 and 14). Affidavit, read by secretary, contained the following information: That on or about the 15th day of September, 1965 deponent purchased a mobile home. At this time it was his intent to place same on his aforesaid premises and to occupy same as a permanent residence. Due to delay in delivery of said mobile home, he did not receive same until on or about May 1, 1966. About the 1st of June, 1966, he constructed a septic tank system and also plans to construct a foundation, pending Zoning Board's approval.

Mrs. Budney questioned whether this mobile home would be assessed as a house. Mr. Cavalari replied that it would.

Motion by Mr. Orzechowski, seconded by Mrs. Budney, that the Board of Appeals act favorably and grant permission to Mr. Ransom to continue the construction of a mobile home on a permanent foundation to be used as a permanent residence with the understanding that all utilities be permanently installed. Roll call, all ayes. Motion carried 5-0.

Mr. Cavalari excused; meeting proceeded with a discussion regarding Sun Oil appeal. Mr. Orzechowski said that Mr. Hoyt seems to imply that this 10 ft. side line doesn't have to apply to gas stations. Mrs. Budney added that she doesn't think that we can accept a three-bay service station on such a small piece of property. Mr. Orzechowski added that he believes the Planning Board recommended to Sun Oil that they eliminate one bay, but were not asked to give site approval. Motion by Col. Fischer, seconded by Mr. Stortecky, that the appeal of Sun Oil Company, dated September 6, 1966, be denied. Roll call, 4 ayes; one abstaining, Mr. Orzechowski because he wants an interpretation from the Zoning Board of Appeals attorney on the law. Motion carried.

Mr. Orzechowski expressed a desire for this Board to receive copies of stop orders from the Planning Board.

Motion by Mr. Orzechowski, seconded by Col. Fischer, that the minutes of the previous meeting be accepted with one correction. The August 22nd minutes, paragraph 18 (page 3), should be corrected to read "that any time we need legal opinion of the zoning code," instead of using the word "interpretation". Roll call, all ayes. Motion carried 5-0.

For the record, Mrs. Budney asked that it be noted that every time we have any map or piece of paper with map markings, we should retain a copy of such map or paper for our file so that we will have some sort of record to refer to.

Motion by Col. Fischer, seconded by Mr. Stortecky, that meeting be adjourned. Roll call, all ayes. Motion carried 5-0. Meeting adjourned.

Respectfully submitted,

Patricia Delio

Patricia Delio, Secretary

SCOTT AND HOYT
ATTORNEYS AND COUNSELLORS AT LAW
233 LIBERTY STREET
NEWBURGH, N. Y.
TELEPHONE JOHN 2-8840

September 7, 1966

C
O
P
Y

Mrs. Pat Harrison
The Evening News
85 Dickson Street
Newburgh, New York

Re: Notice of Hearing
Zoning Board of Appeals
Town of New Windsor
(Sun Oil Company Appeal)-

Dear Mrs. Harrison:

We enclose herewith a Notice of Hearing which we ask that you insert in your publication one time only on Thursday, September 8, 1966 sending 1/2 dozen galley proofs and an affidavit of service to this office and sending to Patricia A. Delio, Secretary, Zoning Board of Appeals, Town of New Windsor, 7 Franklin Avenue, M.D. #23, Newburgh, New York, an affidavit of service.

Kindly bill this office for the insertion since this is a private office matter in which we will be representing the applicant.

Very truly yours,

SCOTT AND HOYT

JLH:jb
Encls.

Julius Larkin Hoyt

cc: Mr. Raymond Firestine
Mr. Eugene Sloan
Mrs. Patricia Delio

Spectators

Mrs Frank Greff

Mr Frank Greff

Frederic McLeod

Emilio Ponzello

M. Firestic - River Rd.

Vails Gate N.Y.

Vails Gate N.Y.

Neely A. M.S.

MD-33 Route 94 Danbury N.Y.

J BRADLEY SCOTT (1894-1962)
JULIUS LARKIN HOYT
LORRAINE COTÉ DEVERS
RICHARD J DRAKE

SCOTT AND HOYT
ATTORNEYS AND COUNSELLORS AT LAW
233 LIBERTY STREET
NEWBURGH, N. Y. 12550
562-3540 AREA CODE 914

September 7, 1966

Mr. Eugene Sloan, Chairman
Zoning Board of Appeals
Town of New Windsor
Little Britain Road, MD 29
Newburgh, New York

Re: Sun Oil Company Appeal
Building Inspector's Stop Order
Gasoline Service Station
Route 32 and North Road

Dear Mr. Sloan:

Pursuant to your Board's approval and direction at its August meeting we have prepared the necessary Notice of Hearing to appear in the Evening News in necessary time for the September 19, 1966 hearing and meeting in re the above.

We also completed the application form received from the Town Clerk, adding a supplemental statement as page 2 to set forth the particulars of the appeal.

We now enclose herewith copies of these two items and a check payable to the Zoning Board of Appeals, Town of New Windsor in the amount of \$10 covering the necessary fee for the appeal application and have sent directly to Mrs. Delio, Secretary of your Board, copies for her files together with an extra set for the Planning Board if that is necessary. We have arranged for publication of the Notice of Hearing in the Evening News asking that they forward an affidavit of publication to Mrs. Delio for your Board's records.

We have arranged for the Notice of the appeal to be sent by registered mail, return receipt requested, and shall provide you with these receipts at the hearing.

The substance of Sun Oil's appeal arises out of the stop order issued by the Building Inspector recinding his earlier permit No. 5 issued in March, 1966 approving the construction of a 3-bay service station in accordance with Sun Oil's plans dated November 10, 1965 as submitted both to your Board and the Planning Board at earlier dates. Our position is that compliance with the necessary Section of the Zoning Ordinance, namely Section 48-9B (11), has been made and that this Section

SCOTT AND HOYT
NEWBURGH, N. Y.

Mr. Eugene Sloan, Chairman

Page 2

September 7, 1966

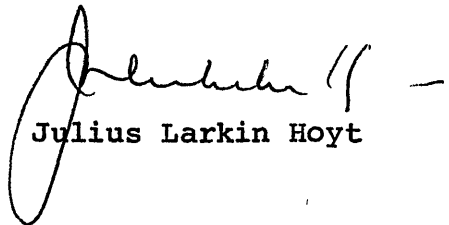
is the only applicable section as to site development and use which must be fulfilled, Sun Oil's variance application of February, 1966 having filled the two non-compliance factors.

We shall appear before the Planning Board on September 14th for a re-hearing and we are asking for the subject hearing before your Board on September 19th in the event we are unsuccessful before the Planning Board on the 14th. We do not seek any additional variance since we are of the opinion none is necessary.

We shall keep you advised of the progress of the matter and particularly of the Planning Board's decision on the 14th.

Very truly yours,

SCOTT AND HOYT



Julius Larkin Hoyt

JLH:jb
Encls.

cc: Mr. Raymond Firestine
Mrs. Patricia Delio

September 7, 1966

1. Santagada-Panella-DeVote ✓
10 Mill Street
Newburgh, N. Y.
2. John Captain and Emil Duda ✓
251 Longworth Avenue
Hasbrouck Heights, N. J.
3. Humes M. Flynn ✓
11 East Main Street
Washingtonville, N. Y.
4. Luisa Belli & Carmen Lopez ✓
RD #4, Windsor Highway
Newburgh, N. Y.
5. Shell Oil Company ✓
41-70 Main Street
Flushing, N. Y.
6. Marko Beer & Beverage Inc. ✓
Old Forge Hill Road
RD #4, Newburgh, N. Y.
7. Windsor Building Supplies
P.O. Box 27
Newburgh, N. Y.
8. Harold Adams ✓
Highland Avenue
Maybrook, N. Y.
9. Dr. J. A. Forestiere ✓
River Road, RD 1
Newburgh, N. Y.
10. Newburgh City School District ✓
98 Grand Street
Newburgh, N. Y.
11. George and Joyce Harver ✓
North Road, RD #2
Newburgh, N. Y.
- ✓ 12. Carmen J. & E. Pacione
North Road RD #2
Vails Gate, N. Y.
13. Garden Area Shopping Center ✓
Main Street
Florida, N. Y.
14. Louis Nuzzo Construction Co.
Windsor Highway, RD #4
Newburgh, N. Y. — Returned ✓

Aug. 13 1966

Dear Sir


We are unable to attend the appeal
as it is during our working hours.

This letter is to serve notice that
we do not object to the proposed
Sun Oil station at Rte 32 and North
Rd.

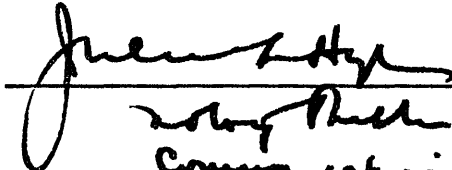
Emil Duda
John Capitani
Co-Owners
Stewarts' Root Beer
Box 67
Vails Gate
N. Y.

STATE OF NEW YORK)
COUNTY OF ORANGE) SS:

R. Firestine, Agent for the Sun Oil Company, being duly sworn, deposes and says that on the 7th day of September, 1966, he mailed a copy of the attached Notice by Certified Mail, Return Receipt Requested, to each adjoining property owner within a radius of 500 feet of the exterior boundaries on the premises involved in this appeal, as their names appear on the last completed assessment roll of the Town.


R. Firestine, Agent for
Sun Oil Company

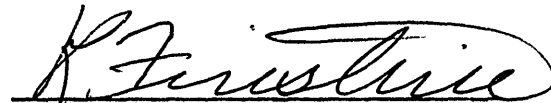
Sworn to before me this 7th
date of September 1966.


Notary Public
Comm. expires 3/30/68.

September 7, 1966

TAKE NOTICE that the undersigned has taken an appeal from a Stop Order issued by the Building Inspector rescinding Building Permit #5 covering the construction of a gasoline service station at the intersection of Route 32 and North Road (formerly Old Temple Hill Road), New Windsor, N. Y. and said appeal will be heard by the Zoning Board of Appeals of the Town of New Windsor, Orange County, State of New York on the 19th day of September, 1966, at 7:30 PM at the Town Hall, 244 Union Avenue, New Windsor, N. Y.

Dated: 9/7/66


R. Firestine, Agent for
Sun Oil Company

TO: THE PLANNING BOARD OF THE TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK.

RE: Application for re-hearing by Sun Oil Company covering a gasoline service station at the corner of Route 32 and North Road (Old Temple Hill Road) opposite the Big V Shopping Center.

Application for a variance was made to the Zoning Board of Appeals of the Town of New Windsor on February 21, 1966 to permit the use of a parcel of land then under contract of sale dated July 16, 1965 from one Marcantonio and wife to the Sun Oil Company. The premises in question lie along the east side of North Road (Old Temple Hill Road) and the south-westerly side of Route 32 opposite the Big V Shopping Center and contain approximately 12,000 sq. ft. of area, measuring approximately 140 feet along Route 32, 145 feet along North Road with a connecting arc of over 50 feet on a 25 foot radius at their intersection. The Zoning Board of Appeals, after due hearing and notice as required by law, granted the variance overruling the Building Inspector's disapproval of a Building Permit application on the grounds that the property did not meet the minimum required 15,000 sq. ft. lot size and that its location was less than 200 feet from a school.

Thereupon and on March 4, 1966, a Building Permit, being Permit No. 5, was issued to the Sun Oil Company on the basis of the plans and layouts submitted to him and after razing the existing structure, construction was commenced.

On or about August 10, 1966 the Sun Oil Company was asked to appear before the Planning Board when the question of non-compliance with the Zoning Ordinance was raised by virtue of the fact that there had been no application to the Planning Board for its approval of site development plans as required by Article III, (District Use Regulations), Section 48-13B relating to and setting forth the permitted uses subject to approval of site development plans by the Planning Board, Section 48-13 applying to the subject premises because

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present Zoning Ordinance.

As a result of this appearance by Sun Oil Company and the consideration of the matter by the Planning Board, the Building Inspector on or about August 20, 1966 issued a stop order covering the aforesaid Building Permit No. 5 affecting the 61' x 29' three-bay service station as originally approved.

Application is now being made for a re-hearing of this matter based on the plan as originally submitted both to the Zoning Board of Appeals in February, 1966 and to the Planning Board in August, 1966 and as being constructed until the stop order was issued to Sun Oil Company. The following reasons are offered for the consideration of the Planning Board as the basis to direct a rescission of the stop order and the reinstitution of Building Permit No. 5.

- (1) SUN OIL COMPANY'S SITE DEVELOPMENT PLAN OF NOVEMBER 10, 1965 AS ORIGINALLY SUBMITTED COMPLIES WITH ALL REQUIREMENTS OF THE ZONING ORDINANCE RELATING TO GASOLINE SERVICE STATIONS.

The subject property is located in the General Industry District under the Zoning Ordinance and pursuant to Section 48-13(B), a permitted use subject to Planning Board approval of site development plan is, by subparagraph (5), an automotive service station subject to the regulations of Section 48-9B (11).

Therefore, although the procedure as to the site development plan is controlled by Article X, Section 48-34 relating to procedures, the substantive factors are those set forth in Section 48-9B (11) which is a section relating to district use regulations in the local business districts of the Town of New Windsor. Section 48-13, subparagraph (5) specifically states and therefore directs that the regulations of Section 48-9B (11) are applicable. This is an exclusive direction and the Planning Board must confine its approval to whether or not there has been compliance with the requirements of Section 48-9B (11). The Zoning Board of Appeals' consideration of the variance application of March, 1966 was concerned with these specific regulations and no others.

Section 48-9B (11) sets forth seven sub-sections which are the regulations to be fulfilled by a service station application. The Sun Oil Company received a variance as to the minimum lot size and the minimum footage distance from any school. Each of all of the other specific requirements relating to frontage, entrance and

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Section 48-9B (11) sets forth seven sub-sections which are the regulations to be fulfilled by a service station application. The Sun Oil Company received a variance as to the minimum lot size and the minimum footage distance from any school. Each of all of the other specific requirements relating to the 100' minimum street frontage; entrance and exit driveway widths and locations; requirements as to apparatus and servicing within an enclosed

building; storage of gas and other inflammables and location of gas pumps, etc. were all met by the original November 10, 1965 site development plan entitled "Plot plan of proposed service station, Route 32 and Old Forge Hill Road, Vails Gate, N.Y."

- (2) APPLICANT HAS ACTED IN GOOD FAITH AND NOT INCONSISTENTLY.

The November 10, 1965 site development plan was submitted to the Zoning Board of Appeals in February, 1966 to the Planning Board in August, 1966 to the Building Inspector and was being built by Sun Oil Company up until the issuance of the stop order in late August, 1966. There has been absolutely no change to this plan from the beginning of these proceedings to secure a Building Permit. Applicant went to contract to buy the subject premises in July of 1965 close to six months before the present Ordinance was adopted and made application pursuant to the contract through the sellers' attorney by way of an appeal for a variance from the Zoning Board of Appeals assuming this was the correct procedure to follow after refusal of a Building Permit by the Building Inspector. Having earned this variance and not being advised of any other requirements as to side yards, set backs, etc. and having received a Building Permit in March 1966, Sun Oil Company assumed that its construction was properly authorized and in accordance with the Building Inspector's and the Zoning Board of Appeals' requirements as set forth in the Zoning Ordinance. The construction was commenced not in an attempt to defeat or get around the Zoning Ordinance but in the full assumption that compliance had been fulfilled. Applicant went to closing under the contract assuming the most important condition in the contract, namely

"8. Permits: It is understood that Buyer intends to use the premises herein described as a gasoline service and filling station (for the storage and sale of gasoline, petroleum products, automobile accessories, automotive repairs, etc.) with washing and lubrication bays and the performance of this agreement is expressly conditioned upon Seller being able to secure all necessary permits and gasoline service and filling station, together with approaches and curb cuts, in accordance with Buyer's plans and specifications."

had been fulfilled. Upon being advised that there had been an omission to obtain the approval from the Planning Board of its site development plan, applicant appeared immediately and stopped construction for over a week prior to the receipt of the issuance of the stop order.

- (3) ARTICLE IV, DISTRICT BULK AND PARKING REGULATIONS DOES NOT APPLY TO SUBJECT GASOLINE SERVICE STATION APPLICATION.

Where there is a conflict between two areas or sections of the Zoning Ordinance such as appear

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(3) ARTICLE IV, DISTRICT BULK AND PARKING REGULATIONS DOES NOT APPLY TO SUBJECT GASOLINE SERVICE STATION APPLICATION.

Where there is a conflict between two areas or sections of the Zoning Ordinance such as appear between Section 48-9B (11) and Section 48-14 (c),

the Section relating to a specific use must apply. For example, in reading the chart under Section 48-14 (c), it is not clear whether a gasoline service station in the General Industry District must comply with the General Industry column or the Local Business column. If it were the General Industry column, the minimum lot area would have to be 40,000 sq. ft. and then Section 48-13(B) (5) would be in error and there would be no application or point to the 7 requirements of Section 48-9B (11). Therefore, compliance with Section 48-9B(11) is sufficient and as a matter of law when an applicant complies with Section 48-9B(11) as to gasoline service stations, he cannot be asked to comply with the general requirements set forth in the chart in Section 48-14 (C).

- (4) FAILURE TO RESCIND THE STOP ORDER WOULD WORK A TOO GREAT HARDSHIP ON APPLICANT.

Sun Oil Company has acted in good faith, as above outlined, and failure to reinstate Building Permit No. 5 would be to penalize the company unduly. Construction already completed has been expensive. Compliance with the ordinance has been made and granting the relief requested here will not create a change of use or change of neighborhood or a major or significant change to what has already been applied for and granted until the error of omission to obtain Planning Board approval was realized. The essential character of the undertaking will not be altered and no detriment to the area or the public will result if the rescission of the stop order is granted.

Wherefore applicant respectfully requests favorable consideration by the Planning Board of the Town of New Windsor of Sun Oil Company's reapplication for approval of its November 10, 1965 site plan and an order to the Building Inspector that his stop order dated August, 1966 be rescinded and that the original Building Permit No. 5 be reinstated.

Respectfully submitted,

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DATED: September 9th, 1966.

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